

REMARKS

Attached please find Forms PTO/SB/17, PTO-2038, and PTO/SB/22.

The Examiner persists in rejecting claims 1-12 as supposedly obvious over US Pat. No. 6,343,287 issued January 29, 2002 to Kumar et al. ("Kumar"). Kumar issued on an application filed May 19, 1999. The present application was filed January 28, 2000, thus far predating the issue date of Kumar. Thus, although the Examiner does not mention it in the Office Action, Kumar is apparently unavailable as a reference under 35 USC sections 102(a) or 102(b), but is only available as a reference (if at all) under 35 USC section 102(e).

Kumar is unavailable as a reference. As will now be demonstrated, the present invention was made prior to the filing date of Kumar. As such, Kumar is unavailable as a reference.

See attached the Declaration of Dr. Silvano Maffei, first named inventor in the present application.

Dr. Maffei identifies the attached Exhibit A, a document entitled "Appendix," as a true and correct copy of information from SoftWired's Concurrent Versions System ("CVS") repository. As Dr. Maffei explains, the CVS holds a complete history of the source code of the product that is the subject of the present application, along with a complete history of many documents developed for the product. Access to CVS was and is limited to the company's engineers. In the CVS, the engineers check files in and out of the system, and in this way a record is maintained of the history of each file therein.

Dr. Maffei identifies the attached Exhibit B, a document entitled "Developing Publish/Subscribe Applications with iBus - Technical White Paper." As he explains, portions have been highlighted for ease of reference in the discussion that follows.

As may be seen from page 1 of Exhibit A, the document of Exhibit B was checked into the CVS on May 17, 1999. Thus it is apparent that the document of Exhibit B was authored no later than May 17, 1999.

Dr. Maffeis identifies the attached Exhibit C, a document dated May 19, 2004 and entitled "Proof of Invention". The document of Exhibit C details pending independent claim 1 and shows how each element of claim 1 (designated A through G for convenient reference) may be found in the document of Exhibit B.

From the foregoing it is apparent that the date of invention for the subject matter of claim 1 is no later than May 17, 1999. The same comments serve to show the date of invention for the other independent claims to be no later than May 17, 1999.

As Dr. Maffeis explains, the company reduced the invention to practice by means of Java files listed in Exhibit A. From Exhibit A it may be seen that many of the Java files were checked into and out of CVS over a range of dates in 1998 and on into the spring of 1999. This shows that there was considerable effort made to reduce the invention to practice in 1998 and early 1999.

New claims 13-24. In the previous amendment, claims 1-12 were amended in an attempt to distinguish over cited reference Kumar. Now that Kumar has (it is hoped) been overcome, new claims 13-24 have been added which are intended to correspond closely with originally filed claims 1-12.

Reconsideration is requested.

Respectfully submitted,



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